

REMARKS

Claims 1-32 were originally presented in the subject application. Claims 33-38 were added in a Preliminary Amendment dated July 9, 2004, and claims 1, 7, 14, 19 and 27 were amended in a Supplemental Preliminary Amendment dated August 9, 2004. Claims 1, 14, 27, 33, 35 and 37 were amended in a Response dated June 15, 2006. Claims 1, 11, 14 and 27 have hereinabove been further amended, and claims 7, 19, 33, 35 and 37 cancelled without prejudice, to more particularly point out and distinctly claim the subject invention. Claim 32 has herein been amended to correct a typographical error, and claims 34, 36 and 38 have been amended to update dependencies in light of the cancellations herein. No claims have herein been added. Therefore, claims 1-6, 8-18, 20-32, 34, 36 and 38 remain in this case.

The addition of new matter has been scrupulously avoided. In that regard, support for the common additions to the wherein clauses of the independent claims can be found in the specification at, for example, numbered paragraphs 0032-0033. Support for the amendment to claim 11 can be found in the specification at, for example, numbered paragraph 0046.

Applicants respectfully request entry of the enclosed amendments, and reconsideration and withdrawal of the various grounds of rejection.

35 U.S.C. §112 Rejection

The final Office Action rejected claims 1-38 under 35 U.S.C. §112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Applicants respectfully, but most strenuously, traverse this rejection as it relates to the amended claims.

More specifically, the final Office Action indicates that the claims should be amended to clearly recite what was argued in Applicant's last response. In particular, the dimensions of the small and larger-scale containers in the claims are not the same. As an example, the dimension of the small-scale container could be a width of the bioproduct container for the unit, and the dimension for the large-scale container could be a depth of the container for the

larger-scale unit. Thus, the claim language referred to different dimensions, and not different measurements for the same dimension of different containers.

Although by the amendment above the “second dimension” is no longer necessary in the claims, Applicants have amended independent claims 1, 14 and 27 to recite that the dimension of the small-scale bioproduct container is one of length, width and depth. The claims have also been amended to make clear that the spacing of the opposite surfaces and/or the dimension of the small-scale bioproduct container are sized to simulate a slice of the larger-scale bioproduct container taken between freezing surfaces of the larger-scale bioproduct container.

The final Office Action, on page 5 thereof, also indicated concerns regarding the “coupleable” language in the independent claims (at least one of the surfaces being coupleable to at least one driving device). In response, Applicants have amended independent claims 1 and 14 to recite that at least one of the at least two opposite surfaces is configured to be coupled to the at least one driving device. As such, Applicants submit it is not merely an intended use. Moreover, independent claim 27 already recited actually coupling at least one of the at least two opposite surfaces to at least one driving device.

As amended, Applicant submit that claims 1-6, 8-18, 20-32, 34, 36 and 38, are sufficiently definite, and overcome the stated rejection.

### 35 U.S.C. §102 Rejection

The final Office Action rejected claims 1-5, 7-10, 12-16, 19, 21, 22, 24-38 under 35 U.S.C. §102(b), as allegedly anticipated by Bender et al. (U.S. Patent No. 3,586,097). Applicants respectfully, but most strenuously, traverse this rejection as applied to the amended claims.

In addition to arguments regarding the cited art, the final Office Action noted several concerns regarding the relationship between the larger and smaller containers. In order to address those concerns, Applicants have amended the claims as noted above regarding the

§112 rejection. In addition, independent claims 1, 14 and 27 have been amended to recite that information about the bioproduct(s) at the large scale is deducible from actual information obtained for the bioproduct(s) at the small scale. Taken together, Applicants submit that the claims address the noted concerns.

With regard to the cited art, the final Office Action cites to FIG. 5 and the transfer pipes (element 51) of Bender et al. FIG. 5 of Bender et al. shows a cross-section of the cassette (holder for specimen bag) from FIG. 4, which goes into one of the freezing tank or the thawing tank (18, 19). As shown in FIG. 3, coils 51 surround holding tank 17, which is sized larger than tanks 18, 19 and is not intended to be used with a cassette. However, there is no disclosure in Bender et al. regarding a larger-scale unit, let alone sizing at a small scale to simulate a slice of a larger bioproduct container therefore, the slice taken between freezing surfaces of the larger bioproduct container. This provides, for example, information at the smaller scale that can be used instead of, or in planning for, use at the larger scale.

In light of the above, Applicants submit that Bender et al. cannot anticipate, or even render obvious, claim 1.

Independent claims 14 and 27 contain limitations similar to those argued above with respect to claim 1. Thus, the remarks made above with respect to claim 1 are equally applicable to claims 14 and 27. Therefore, Applicants submit that claims 14 and 27 also cannot be anticipated by or made obvious over Bender et al.

Applicants submit that the dependent claims are allowable for the same reasons as the independent claims from which they directly or ultimately depend, as well as for their additional limitations.

For example, claim 5 recites at least two clamping arrays coupled to the unit for holding a plurality of bioproduct containers. Applicants submit there are no clamps in Bender et al., let alone at least two arrays of them. Instead, the final Office Action cites to the function of holding the container in place by the combination of moveable and stationary

plates in Lavender. However, Applicants submit this reads far more into Bender than what is there. Moreover, the plates have no clamping function on the containers.

Therefore, Applicants submit that claim 5 cannot be anticipated by Bender et al.

### 35 U.S.C. §103 Rejection

The final Office Action rejected claims 6, 11, 17, 18, 20 and 23 under 35 U.S.C. §103(a), as being obvious over Bender in view of Lavender (U.S. Patent No. 4,565,073). Applicants respectfully, but most strenuously, traverse this rejection.

Claim 6 recites, for example, that the at least two clamping arrays are coupled to the at least two opposite surfaces of the unit.

Against this aspect of claim 6, the final Office Action cites to Lavender at FIGs. 5 and 6. However, as shown in FIG. 1 of Lavender, the frame therein has a single row of screws for compressing the plasma bags. The claim recites at least two clamping arrays coupled to the at least two opposite surfaces of the unit. Applicants submit there is no teaching or suggestion of at least two clamping arrays as claimed. Applicants submit the allegation in the final Office Action regarding the movable and stationary plates simply reads far more into Lavender than what is there. Moreover, the plates have no clamping function on the containers.

Therefore, Applicants submit that claim 6 cannot be rendered obvious over Bender in view of Lavender.

The remarks made above regarding claim 6 are also applicable claims 17 and 18.

Claim 11 recites that the at least one of the at least one divider is removable without dismantling the unit.

Against claim 11, the final Office Action cites to the dividers of Lavender. However, the Office Action points to no section of Lavender teaching or suggesting *removable* dividers. Instead, the final Office Action alleges the dividers are removable essentially by

taking the device apart. As amended, Applicants submit claim 11 clearly distinguishes over this reading of Lavender.

Therefore, Applicants submit that claim 11 cannot be rendered obvious over Bender in view of Lavender.

The remarks made above regarding claim 11 are also applicable claim 23.

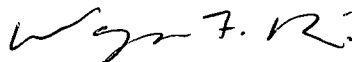
### CONCLUSION

Applicants submit that the dependent claims not specifically addressed herein are allowable for the same reasons as the independent claims from which they directly or ultimately depend, as well as for their additional limitations.

For all the above reasons, Applicants maintain that the claims of the subject application define patentable subject matter and earnestly request allowance of claims 1-6, 8-18, 20-32, 34, 36 and 38.

If a telephone conference would be of assistance in advancing prosecution of the subject application, Applicants' undersigned attorney invites the Examiner to telephone him at the number provided.

Respectfully submitted,

  
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